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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,482	11/01/2001	Charles W. Moorman	CWMM-25,915	1383
31782	7590	01/30/2004	EXAMINER	
CHAUZA & HANDLEY, L.L.P. PO BOX 140036 IRVING, TX 75014			HAYES, BRET C	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

**Application No.**

10/001,482

**Applicant(s)**

MOORMAN, CHARLES W.

**Examiner**

Bret C Hayes

**Art Unit**

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 1,2,8,14 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claims 1, 2, 8, 14 and 19 are objected to because of the following informalities: claim 1, line 4, "a user" should be --the user--, line 8, "a second end" should be --the second end--, and line 10, "as steady rest" should be --a steady rest--; claim 2, line 2, claim 8, line 4, claim 14, line 20, and claim 19, line 25, "releasibly" should be --releasably--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 11, 17, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 11, 17 and 20, lines 7 and 8 of each, "to prevent said inner and outer tube sections from telescopically moving in sliding relation until said tube sections are pulled fully apart," is unclear because the sections must telescopically move while being pulled fully apart.

*(Examiner's emphasis added.)*

5. Re – claim 18, any claim dependent upon a rejected base claim is also rejected.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 – 7, 9, 12, 13, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Nos. 3,390,477 to Galbraith in view of 3,609,902 to Casull.

8. Regarding claim 1, Galbraith discloses a portable arm support comprising a saddle 13, fastening straps 14, a support tube 15 having first 16 and second 18 ends, the first end 16 being pivotally mounted 28, 30 to the saddle 13, and set forth at col. 2, lines 9 – 13, a pocket member 19 having a cavity 41 for receiving the second end 18 of the support tube 15.

However, Galbraith does not disclose wherein an end portion of the saddle is disposed adjacent a palm of the hand of the user and defines a steady rest which engages directly against the object held in the hand of the user to provide support for the object.

Casull teaches an end portion of a saddle 5 being disposed adjacent a palm of the hand of the user, best seen in Fig. 3, for example, and defining a steady rest which engages directly against the object H held in the hand of the user, further set forth at col. 3, line 49, in the same field of endeavor for the purpose of providing support for the object.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Galbraith to include an end portion of the saddle being disposed adjacent a palm of the hand of the user and defining a steady rest which engages directly against

Art Unit: 3644

the object held in the hand of the user as taught by Casull in order to provide support for the object.

9. Re – claim 2, Galbraith in view of Casull discloses the claimed invention except for the support further comprising a retaining member secured to the saddle for releasably securing the support tube to the saddle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the support further comprise a retaining member secured to the saddle for releasably securing the support tube to the saddle, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

10. Re – claim 3, Galbraith further discloses the support being telescopically extensible, as set forth at col. 2, line 9, for example.

11. Re – claim 4, Galbraith discloses the claimed invention, including a means for selectively securing the tube **15**, as set forth at col. 2, line 26, for example, except for the means being at least one latch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use at least one latch means, since the equivalence of the securing means as disclosed by Galbraith and a latch means for their use in the securing art and the selection of any known equivalents to Galbraith's securing means would be within the level of ordinary skill in the art.

12. Re – claim 5, Galbraith further discloses the pocket member **19** being secured to a waist belt **20** of the user, the cavity **41** facing upwards, and the member **19** including a belt fastener strap **31** mounted to one side of the member **19**.

Art Unit: 3644

13. Re – claim 6, Galbraith further discloses the saddle 13 having first 26 and second 27, 28 saddle members, with the second member 27, 28 being smaller than the first member 26 and being fixedly secured to the first member 26, and the second member 27, 28 having an aperture, through which, item 30 passes as explained below, into which an upper end 16 of the support tube 15 is rotatably secured by a swivel pin 30.

14. Re – claim 7, Galbraith further discloses fastening straps 14 secured to and extending on opposite sides of the saddle 13, and a first end and a second end of the straps 14, and the straps 14 including securing means, examiner's number 100 in Figs. 2 and 3, for example. However, Galbraith does not disclose the securing means 100 including the first end having buckles and the second end having apertures. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the securing means of Galbraith to include buckles and apertures, since the equivalence of the securing means of Galbraith and buckles and apertures for their use in the fastening art and the selection of any known equivalents to buckles and apertures would be within the level of ordinary skill in the art. Further, Galbraith does disclose the use of a belt 20 as detailed above. A belt, by any common standard, would be a fastening strap and would most often include a buckle and at least one aperture. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Galbraith's fastening straps and securing means, as such, by substituting the buckle and aperture as disclosed by Galbraith in order to secure the saddle to any body part of the user. Regarding the fact that Galbraith does not specifically disclose the securing of the saddle to a forearm of the user, the embodiment of Fig. 1 is but "one of [the supporting device's] operative positions in which [the supporting device] supports the arm", as set forth at col. 2, line

Art Unit: 3644

2, and, further, at col. 2, line 28, is “adapted to be secured in any of [the tubular member’s 16, 17] adjusted positions relative to each other.” This would imply that Galbraith contemplated embodiments of the support being attached at various locations of an arm to include a forearm.

15. Re – claim 9, Galbraith in view of Casull disclose the invention as claimed except for the shapes of the first and second saddle members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the shapes of the saddle members, since there is no invention in merely changing the shape or form of an article without changing its function except in a design patent. *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23.

16. Re – claims 12 – 16, Galbraith in view of Casull, as applied to claims 1 – 7 and 9 above, disclose the claimed invention.

17. Claim 8 is rejected under 35 U.S.C. § 103 as being unpatentable over Galbraith in view of Casull, further in view of any of the following US Patent Nos. 5,410,835 to Vetter (previously cited), 4,609,192 to Bratcher, 3,894,496 to Phillips et al. (Phillips) or 3,783,799 to Dupuis.

18. Galbraith in view of Casull discloses the claimed invention except for a generally U-shaped, flexible metal retaining clip fixedly secured to the first saddle member 26 for receiving the support tube 15.

Vetter, Bratcher, Phillips or Dupuis teach a spring clip 26, 59, 23, and 19 and 20, respectively, in the (Vetter) same field of endeavor or (Bratcher, Phillips or Dupuis) analogous art of securing tubular members for the purpose of securing at a specific location tubular members in anywise pivotally connected to another member, preventing any major movement of the members.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Galbraith in view of Casull to include a spring clip as taught by Vetter, Bratcher, Phillips or Dupuis in order to secure a member in a specific location.

19. Claims 10, 11 and 17 – 20 are rejected under 35 U.S.C. § 103 as being unpatentable over Galbraith in view of Casull further in view of either US Patent Nos. 5,194,678 to Kramer or 1,103,824 to Page.

20. Re – claim 10, Galbraith in view of Casull discloses the invention substantially as claimed including a swivel pin **30** having first and second ends and extending through the aperture as described above, and a swivel anchor, the nut of item **30**, secured to one end of the swivel pin **30**, the anchor being of a larger size than the aperture in member **27, 28**. However, Galbraith in view of Casull does not disclose the ball and socket type swivel connector as described in the specifications and drawings.

Kramer teaches a ball and socket type swivel connector **32** et al. in the same field of endeavor for the purpose of increasing the range of motion of the legs **22** et al., best seen in Figs. 1 and 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Galbraith in view of Casull to include the ball and socket type connector as taught by Kramer in order to increase the range of motion of the device.

Alternatively, Page teaches a ball and socket type swivel connector **19, 20** in the same field of endeavor for the purpose of permitting vertical and also horizontal movement of the arm rest member **18**.



It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Galbraith in view of Casull to include a ball and socket type swivel connector as taught by Page in order to permit vertical and horizontal movement of an arm rest.

21. Re – claims 11 and 17, Galbraith in view of Casull discloses the claimed invention except for an attachment member, which extends between the inner **16** and outer **17** sections to prevent the sections from telescopically moving until pulled fully apart.

Kramer further teaches an attachment member **24**, which extends between inner and outer sections in the same field of endeavor for the purpose of preventing the sections of a leg that can be broken down from becoming separated.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Galbraith in view of Casull, in view of Kramer or Page, to include the attachment member as taught by Kramer in order to prevent those sections of the leg from becoming separated.

22. Re – claims 18 – 20, Galbraith in view of Casull, in view of Vetter, Bratcher, Phillips or Dupuis, and further in view of Kramer or Page, as applied above, discloses the claimed invention.

### ***Response to Arguments***

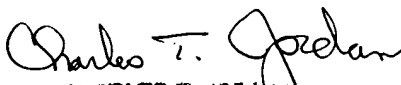
23. Applicant's arguments with respect to claims 1 – 20 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3644

***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306 – 4159. The fax number is (703) 872 – 9306.

  
**CHARLES T. JORDAN**  
**SUPERVISORY PATENT EXAMINER**  
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bh

1/29/04